

TAB A

DISCUSSION OF APPLICABLE LAWS AND REGULATIONS TO TEMPORARY PROMOTIONS

1. The basic concept of position classification within the Government is set forth in the Classification Act of 1949. However, the fundamental principles go back much further and include the old Classification Act of 1923. Under that concept each position within Government is classified and assigned a rating within the GS schedule. The law itself specifies in considerable detail the criteria applicable to each grade. Included among the criteria are such factors as degree of skill, experience, training, education, and responsibility. When an individual is assigned to a classified position he also is evaluated to see if his personal qualifications meet the requirements for the position. Under this system an individual cannot hold a GS rating higher than that pertaining to the position. On the other hand an individual with a lower grade can be placed in a higher grade position for a temporary period. Eventually he would be promoted to the rating of the position or else, by reclassification action, the position would be downgraded. Of course, there cannot be too great a disparity between the rating of the position and the rating of the individual.

a. For new appointees there is usually required a trial period of not more than one year. Upon satisfactory completion of the trial period, employees then have the equivalent of a permanent appointment. Where the job has been filled from Civil Service registers through their normal recruitment procedures, including competitive examinations, this permanent appointment generally confers what is known as "status." Under pertinent law and Government practice the permanent employee has the expectation that having attained a particular position, he will remain in that position or an equivalent one so long as he renders satisfactory service. With respect to a Veteran, this expectation is reinforced by the Veterans Preference Act. That Act provides for orderly procedures to discharge or downgrade a Veteran. If the Veteran does not believe that the adverse action affecting him was appropriate

-2-

he may appeal his case to the Civil Service Commission. Upon review the Civil Service Commission has the authority to direct restoration to the former position and rescission of the adverse action. Even after the adverse action has been upheld by the Civil Service Commission, the Veteran has the further right of appealing the matter to the Federal courts which in turn could overrule both the Agency and the Civil Service Commission and director restoration.

b. This Agency is specifically exempted from the provisions of the Classification Act of 1949. It should be noted, however, that our justification to the Civil Service Commission and the Bureau of the Budget for requesting exemption was based on security considerations and the impossibility within those security restrictions of having the Civil Service Commission audit classification procedures and actions. In writing, we have advised those agencies that as a matter of policy CIA will follow the principles of the Classification Act insofar as possible.

c. This Agency is not exempted from the provisions of the Veterans Preference Act. Veterans can properly appeal a personnel action from this Agency whether employed on vouchered or unvouchered funds in the same manner as a Veteran with Civil Service status at the Department of Agriculture. An employee of CIA does not gain any Civil Service status solely by virtue of employment with CIA. If he had status prior to coming with CIA he does not lose it but he gains nothing more.

2. There are no legal limitations on the number of supergrades which CIA may establish. The Director has determined that the number of individuals who can be granted supergrades will not exceed This figure excludes 5 positions which have been established by statute. Those positions include the Director, the Deputy Director, and three Scientific Intelligence positions (the salaries of these three positions can be fixed at a maximum of \$15,000). The latter three positions are authorized by Section 9, Public Law 110. The Bureau of the Budget and the

-3-

Congress are vitally interested in the total number of supergrades authorized by CIA. Their interest is such that we do not have a completely free hand in establishing the ceiling on supergrade positions.

a. The Bureau of the Budget is fully aware of the number of supergrades presently occupied as well as our ceiling. Whether CIA considered an occupant of a supergrade as holding the rating on a temporary basis or whether on a permanent basis would be of no concern in any considerations by the Bureau of the Budget or the Congress of the propriety of the number of supergrades.

b. Recently there had been established within CIA, a Supergrade Review Board to consider which jobs should be classified in the supergrade category and at what rating. That Board made a number of recommendations concerning the ratio of supergrade jobs to all jobs within the Agency and also recommended a specific list of supergrade positions. The total number on that list was in excess of the present ceiling approved by the Director. The Supergrade Board also recommended that all Senior Representative jobs be classified on a sliding scale from GS-15 through 18, on the theory that at different times the responsibilities in particular areas would vary and consequently the applicable rating should vary. Although this recommendation has not been formulated into a written policy, it is being followed at this time. Further, past actions indicate that a very flexible approach has been taken toward ratings to be assigned to Senior Representatives both in terms of upgrading the rating previously assigned to the job when a higher rated individual was assigned, and the individual retaining a lower rating when assigned to a post with a higher rating.